



THE SCHOOL DISTRICT OF CHESTER COUNTY

109 HINTON STREET
CHESTER, SOUTH CAROLINA 29706

LARRY B. HEATH
SUPERINTENDENT



October 10, 2008

Alex C. James, AIA
Director, Office of School Facilities
3710 Landmark Drive, Suite 205
Columbia, SC 29204

RE: Property Disposal of Old Chester Middle School

Dear Mr. James:

The Chester County Board of School Trustees request approval from the State Board of Education to dispose of the old Chester Middle School located on Caldwell Street in the city of Chester, South Carolina. This property was purchased after 1952 and consists of approximately 15 acres. The old Chester Middle School building and 5.8 acres of the property will be transferred to the SL Finley Restoration Association, Incorporated for a donation of \$1.00. The Association plans to use the facility for a community center.

Enclosed please find a copy of the board's resolution for the transfer of the property.

Sincerely,

Larry B. Heath
Superintendent

Enclosure

RESOLUTION

CHESTER COUNTY SCHOOL DISTRICT CHESTER, SOUTH CAROLINA

Whereas, the Board of Trustees ("Board") of the School District of Chester County ("District") is the owner of real property and improvements known as the Old Chester Middle School site (hereafter the "Property"); and

Whereas, pursuant to SC Code § 59-23-310, trustees of any school district may convey, in fee simple, title to any school building within the district which is no longer needed for school purposes upon compliance with the provisions of Section 59-19-250; and

Whereas, pursuant to SC Code § 59-19-250, school trustees of the several school districts may sell or lease school property, real or personal, in their school district whenever they deem it expedient to do so and apply the proceeds of any such sale or lease to the school fund of the district; and

Whereas, pursuant to FY 2009 State Budget Proviso 1.40, during the current fiscal year, school trustees of a school district which do not currently have the authority to do so, may sell or lease school property, real or personal, in their school district whenever they deem it expedient to do so and apply the proceeds of the sale or lease to the school fund of the district; and

Whereas, the South Carolina Supreme Court has said, "[o]ur decisions clearly hold that a public agency may exercise discretion in effecting a sale of public property and that neither public bidding is required nor is there a requirement that the maximum price be obtained. Indirect benefits to result to the public may properly be considered." Elliott v. McNair, 156 S.E.2d 421, 432 (S.C. 1967); and

Whereas, "[i]t is established beyond question by the decisions of the Supreme Court of South Carolina that a public body may properly consider indirect benefits resulting to the public in determining what is a fair and reasonable return for disposition of its properties without running afoul of the constitutional prohibition against donations." McKinney v. City of Greenville, 203 S.E.2d 680, 688 (S.C. 1974); and

Whereas, the Property is no longer needed for school purposes, disposition of the Property will not have a discernible negative impact upon any other district school facility or site, and use of the Property by others will provide indirect benefits to the District and its people; and

Whereas, the Board of Trustees has a legal duty to carry out its "sole purpose ... of providing free school education," S.C. Code § 59-1-160, and the Board's limited capital and maintenance resources are better spent on current school facilities and purposes, since the Board is not conducting "free school education" on the Property, nor could it economically do so given the other facilities of the District and, in particular, the

potential cost of renovation of the improvements on the Property to meet State Department of Education current code standards; and

Whereas, the Property appears to have been conveyed to the Board of Trustees by deed of Mary H. Tinsley, et al., recorded November 9, 1953, and the date of this conveyance raises the possible application of SC Code § 59-19-190, under which, "reassignment or disposal of such parcels of land purchased after 1952 with any State funds shall be subject to the prior written approval of the State Board of Education;"

Now Therefore,

Be it Resolved, that the School Board of Trustees requests approval from the State Board of Education to dispose of the Property in accordance with the foregoing authorities; and

Be it resolved, that assurance is hereby given that the proceeds from the sale of Property shall be applied in compliance with the South Carolina School Code, S.C. Code §§ 59-1-10 et seq.; and

Be it resolved, that the Superintendent is directed to forward this Resolution to the State Board of Education and to take all incidental and necessary actions to effectuate its approval thereby.

Adopted October 7, 2008 by the School Board of Trustees of Chester County School District.


Chairperson of the Board of Trustees

ATTEST:


Secretary to the Board of Trustees